



01-19-06

Jim

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/785,388 Confirmation No.: 6576
Applicant : Leatherbury et al.
Filed : 02/23/2004
TC/A.U. : 3733
Examiner : Kim, John
For : BONE AND CARTILAGE IMPLANT DELIVERY DEVICE
Docket No. : 121-02
Customer No. : 23713

CERTIFICATE OF MAILING

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17 January 2006

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Date

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RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
Arlington, VA 22313-1450

Sir:

In response to the Restriction Requirement dated December 23, 2005, please enter the following response.

The Examiner has divided the claims into four groups and requires an election of one of the groups. Groups I, II, III and IV are defined below.

- I. Claims 1-10, and 24-29 drawn to an implant delivery device/kit.
- II. Claims 11-15 drawn to a cutting device.
- III. Claims 16-20 drawn to an implant capsule loader.
- IV. Claims 21-23 drawn to an implant delivery system

Applicants elect prosecution of Group I (claims 1-10 and 24-29 drawn to an implant delivery device/kit) with traverse. The devices of Groups I, II, III and IV share

functional and structural features. For example, the cutting device in Group II is specifically designed to accommodate the delivery device of Group I. The capsule loader of Group III is similarly specifically designed to attach to the delivery device of Group I. The capsule loader and cutting device of Groups II and III are combined with the delivery device of Group I to form the implant delivery system of Group IV. In view of the relatedness of the devices of the groups, a search of all four groups of claims does not represent an undue search burden upon the Office. Applicants submit that all of Claims 1-29 should be considered in the same application.

In addition, the Examiner has determined there are four species of the implant delivery device presented and requires an election of a single species for prosecution on the merits. Applicants elect the species in group A, as depicted in figures 1-3.

Applicants believe the following claims read upon the elected species: claims 1-5, 8, 24-29.

Conclusion

It is believed no fees are required with this Response. If this is incorrect, please credit any overpayment or deduct any deficiency from deposit account 07-1969.

Respectfully submitted,



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Attorney Docket No.: 121-02
bmk: January 17, 200